



Civil Citation with Penalty & Order to Correct - AHERA

Pursuant to 454 CMR 28.00 and 454 CMR 29.04, the Department of Labor Standards (“DLS”) hereby issues a *Civil Citation with Penalty and Order to Correct* to the following Respondent:

Local Education Agency: Fall River Public Schools
Superintendent: Dr. Tracy Curly Ed.D
LEA Business Address: 417 Rock Street Fall River, MA 02720
Designated Person Name: John Clow

Date of Inspection (and reinspection if any): 09/03/2025
Name of School inspected: Fall River Resiliency Preparatory School
School Address: 290 Rock Street Fall River, MA 02720
Contact Phone Number: (508)-675-8420

Statement of Facts:

On September 3, 2025 DLS visited the Fall River Resiliency Preparatory School, located at 290 Rock Street Fall River, MA to ensure compliance and implementation of 40 CFR 763, Subpart E and the rules promulgated under AHERA. DLS received a complaint regarding dust, noise and asbestos concerns at the school relating to a window renovation project. DLS reviewed the AHERA management plan records available on site, and conducted a limited visual inspection. At the time of the visit, violations of AHERA were observed. The Fall River Public Schools, the Local Education Agency (“LEA”), was not in compliance with the AHERA requirements. Any deficiencies in the management plan that were attributable to errors and omissions on the part of the consultant, shall be corrected at no additional cost to the LEA.

The Fall River Resiliency Preparatory School lies within the jurisdiction of the Fall River Public Schools, which is the LEA that has the ultimate responsibility to ensure schools within its jurisdiction comply with AHERA. A Civil Citation and Order to Correct identifying, 11 violations Docket#AB-19-0238 was issued on August 30,2019 and another Civil Citation and order to Correct identifying 07 violations Docket # AB-21-0614 was issued on March 18, 2021. A Settlement Agreement was established on November 15, 2021 for both docket’s as specified. The agreement specified requirements of AHERA to be established and in compliance for Fall River Public Schools.

The violations listed in this citation, and possibly other AHERA violations, could exist in other schools under the jurisdiction of the LEA. It is the responsibility of the LEA to ensure that all school buildings within the LEA comply with the requirements as prescribed by AHERA. Should DLS

conduct AHERA inspections at schools in which Respondent has jurisdiction and observe the same or similar violations as documented in this Civil Citation, the LEA may be subject to additional civil administrative penalties.

Observations:

On August 29, 2025 DLS received a complaint regarding nuisance dust, noise, and asbestos concerns occurring at 290 Rock Street, Fall River MA at the Resiliency Preparatory School relating to an active window renovation project. On September 3, 2025 DLS performed an inspection at this location. At approximately 10:09am DLS arrived on site, at 10:12am DLS met with the front office staff and asked for the AHERA Management Plan (AMP). Also at this time DLS provided a copy of the email sent to the superintendent outlining the documents DLS would be looking for and the reason for the inspection. At 10:16am DLS met with the principal at which time advised they were calling the lead custodian for the building. At 10:20am DLS met with the lead custodian Shawn, and advised him of what DLS is looking for, a copy of the email to the superintendent and the reason for the inspection. At 10:24am DLS was advised that Universal Environmental Consultants (UEC) is the consultant that the Local Education Agency (LEA) uses. At 10:26 am no AHERA Management Plan could be located. At 10:28am DLS began a walk-through of the building accompanied by Shawan going to at least one of each of the following locations, a classroom, a custodial closet, a cafeteria/kitchen, a boiler room a gym and an auditorium. During the walkthrough DLS observed poly that was falling in the third-floor hallway. Loose caulking found on the interior of the cafeteria on wall D or the north side wall on the first floor. At 11:06 am DLS met with the Clerk of the Works, the General Contractor, a representative from S&L, two individuals from Alpine Environmental. DLS discussed the observed debris, the loose poly and provided pictures for reference. DLS finished the inspection at 11:42am.

The AHERA violations noted during the September 3, 2025 inspection comprise the basis for this Civil Citation with Penalty. The corrective actions required to bring the LEA into compliance are as follows:

CIVIL CITATION AND ORDER TO CORRECT VIOLATIONS

CORRECTION DUE DATE: 10/13/2025

Regulation	Description of Violation	Corrective Action Needed	Penalty Amount
DESIGNATED PERSON RESPONSIBILITIES			
454 CMR 28.13(1)(b)	Respondent failed to designate a person to ensure that the AHERA requirements are properly implemented.	Respondent must appoint a person to ensure that the AHERA requirements are properly implemented. Provide DLS with the name and contact information of the person appointed.	\$1,000

40 CFR 763.84(g)(2);); 454 CMR 28.13(1)(b)	Respondent failed to ensure that the LEA Designated Person received adequate training to perform the duties assigned under AHERA.	Respondent must provide training to the Designated Person to ensure that the AHERA duties will be performed. General AHERA 4 part training can be found on the EPA website. Provide a copy of the training record/certificate to DLS, and maintain a copy in the management plan.	\$750
40 CFR 763.93(e)(4) and 763.93(i); 454 CMR 28.13(9)(g) and 28.13(9)(d)5	Respondent failed to include in the management plan a statement signed by the Designated Person which certifies that the general LEA responsibilities have and will be met. The statement will include the Designated Person's name, address, telephone number and training documentation.	Respondent must update the management plan with a statement signed by the Designated Person, and include the name, address, telephone number and training. Provide a copy of the signed statement to DLS.	\$500
WARNING SIGNS			
40 CFR 763.95(a),(b),(c); 454 CMR 28.13(11)(a)(b)& (c)	Respondent failed to attach a warning label immediately adjacent to any friable and nonfriable ACM and assumed ACM located in routine maintenance and storage areas.	Respondent must affix a warning sign immediately adjacent to any ACM/assumed ACM in routine maintenance areas and storage areas, including The signs must be readily visible upon entry, of large size and bright color, and read as follows: CAUTION. ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT. Provide documentation to DLS that this action has been completed. The template attached, when replicated on brightly colored paper and affixed to a wall adjacent to the ACM, will satisfy this citation.	\$1,000
40 CFR 763.95(a),(b),(c); 454 CMR 28.13(11)(a)(b)& (c)	Respondent failed to ensure that warning signs were of large size and bright color, visible upon entry. Small stickers affixed to ACM will not satisfy this requirement.	Respondent will post signs in readily visible locations, that are of large size and bright color, and read as follows: CAUTION. ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT. Provide documentation to DLS that this action has been completed. The template attached, when replicated on brightly colored paper and affixed to a wall adjacent to the ACM, will satisfy this citation.	\$1,000
NOTIFICATIONS			

40 CFR 763.84(d); 454 CMR 28.13(1)(a)4	Respondent failed to ensure that short-term workers who may come in contact with asbestos are provided information regarding the locations of ACM and presumed ACM.	Respondent must implement and enforce a method to notify outside contractors/short term workers of the presence of asbestos in the school, and if ACM is located in the area where work will be conducted. Respondent must ensure that the ACM will not be disturbed during the course of the work. Provide DLS with a copy of the notification, and method of notification, and maintain a copy in the management plan.	\$1,000
40 CFR 763.84(f) & 763.93(g)(4); 454 CMR 28.13(9)(e)3 & 28.13(1)(a)6	Respondent failed to provide notification in writing to parent, teacher and employee organizations of the availability of management plans at least once each school year; and Respondent failed to include the method of notification and a dated copy of the notification in the management plan. This is required even if no asbestos is present in a building.	Respondent must develop and distribute a notification each school year, to parents, teachers and employees regarding the availability of the management plan. A dated copy must be maintained in the management plan, along with the method of notification (ex: website link, handbook, etc.) Provide a copy of this year's annual notification and method of notification to DLS, and maintain a copy in the management plan.	\$1,000
40 CFR 763.84(f) & 763.93(g)(4); 454 CMR 28.13(9)(e)3 & 28.13(1)(a)6	Respondent failed to include the method of annual notification and a dated copy of the notification in the management plan.	Respondent must update the management plan with a copy of the annual notification, along with the method of notification (ex: website link, handbook, etc.) Provide a copy of the current annual notification and method of notification to DLS, and maintain a copy in the management plan.	\$500
454 CMR 28.13(7)(e)2.d	Respondent failed to provide notification to DLS of a major fiber release episode within 24 hours of its occurrence.	Provide written assurance to DLS that Respondent will submit a notification on the specified form within 24 hours after a major fiber release. The sample form, when fully executed, will satisfy this requirement.	\$1,000
PERIODIC SURVEILLANCE			
40 CFR 763.92(b)(1); 454 CMR 28.13(8)(b)1	Respondent failed to conduct periodic surveillance at least once every 6 months in each school building that contains ACM or assumed ACM, and failed to document the name of the person performing the	Respondent must initiate and continue performing periodic surveillance at least once every six months in each school building where ACM or assumed ACM is present. Provide a copy of the next two	\$1,000

	surveillance, the date of surveillance, and the any changes in condition of the material.	surveillances to DLS, and maintain copies in the management plan.	
TRAINING			
40 CFR 763.92(a)(1) & 763.84(b); 454 CMR 28.13(8)(a)1	Respondent failed to provide awareness training of at least two hours to custodial and maintenance staff, including new hires, who work in building where ACM or assumed ACM is present. This training is required whether or not they are required to work with ACM.	Respondent must schedule a date to conduct awareness training all custodial and maintenance staff. Provide DLS with the anticipated date of training. Provide a copy of the training records to DLS upon completion, and maintain a copy in the management plan.	\$750
454 CMR 28.13(8)(a)1	Respondent failed to provide awareness training to new employees within 60 days of hire.	Respondent will provide training for the newly hired employees at the first possible date. Provide documentation of training to DLS, and provide written assurance that the LEA will train any future new hires within 60 days of commencing employment.	\$750
40 CFR 763.94(c); 454 CMR 28.13(10)(c)	Respondent failed to maintain documentation of training for each maintenance and custodial staff required to be trained.	Respondent must update the management plan with a copy of the training roster or certificates. If training records cannot be located, training will need to be scheduled. Provide a copy of the training records to DLS.	\$500
INSPECTIONS/REINSPECTIONS			
40 CFR 763.85(a)(2); 454 CMR 28.13(2)(a)	Respondent failed to inspect each building prior to use as a school building. This includes leased buildings or other acquired buildings.	Respondent will schedule an inspection of the school building, and provide a copy of the report to DLS. Respondent will ensure that prior to occupancy of any newly acquired or leased building, the building is inspected for the presence of ACM. Provide DLS with the measures that the LEA will implement to ensure this violation is corrected.	\$1,000
MANAGEMENT PLAN REQUIREMENTS			
40 CFR 763.93(a)(3); 454 CMR 28.13(9)(e)	Respondent failed to submit a management plan to the state for a building being used as a school after October 12, 1988. This includes newly constructed schools, leased buildings and temporary buildings.	Respondent will enlist the services of a properly trained and licensed consultant, to develop a management plan for the school. The LEA must submit the completed plan to DLS for review and approval. Provide DLS with the anticipated date of	\$1,000

		completion of the management plan, and submit a copy to DLS for review. A copy of the management plan must be kept in the LEA administrative office and the school office. This is required for new constructions, even if there is no ACM in the building.	
40 CFR 764.84(f) & 763.93(g)(2); 454 CMR 28.13(9)(e)	Respondent failed to maintain a complete, updated copy of the management plan for each school under its administrative control in the LEA administrative offices.	Respondent must implement a method to ensure that a complete, updated copy of the management plan is maintained in the administrative office for each school within the LEA. Provide DLS with the methods Respondent will use to ensure the management plan is complete and up to date.	\$500
40 CFR 764.84(f) & 763.93(g)(3); 454 CMR 28.13(9)(e)2	Respondent failed to ensure the school maintained a complete, updated copy of the management plan in its administrative office.	Respondent must implement a method to ensure that a complete, updated copy of the management plan is maintained in each school office. This may include random spot checks, or each time the plan is updated with periodic surveillance, response action records, etc. Provide DLS with the methods Respondent will use to ensure the management plan is complete and up to date.	\$500
40 CFR 763.93(e)(9); 454 CMR 28.13(9)(d)10	Respondent failed to ensure that the management contained an updated Operations & Maintenance (O&M) program that reflects the types, locations and condition of the ACM and assumed ACM remaining in the school.	Respondent must ensure the O&M program is updated as part of the 2025 reinspection, and included in the management plan.	\$500
OPERATIONS & MAINTENANCE			
40 CFR 763.94(f); 454 CMR 28.13(10)(f)	Respondent failed to record O&M activities, including the name of the person(s) performing the activity, the date of the activity, the location of the activity, and a description of the activity including preventive measures.	Respondent will update the management plan with records of all O&M activities, including floor care, joint sheet rock repairs, ceiling tile replacements). Respondent will include the name(s) of the person(s) performing the activity, the date and location of activity, and a description of the activity including preventive measures and cleanup. Provide of copy of these records to DLS and maintain a copy in the	\$500

		management plan. For all future O&M activities, Respondent must ensure that documentation is maintained in the management plan.	
BULK SAMPLING			
40 CFR 763.93(e)(3)(ii); 454 CMR 28.13(9)(d)4.b	Respondent failed to ensure that the management plan included a blueprint, diagram or written description that clearly identifies the exact locations where each bulk sample was collected, date of collection, square or linear footage of each homogeneous areas sampled, and homogeneous areas where friable or non-friable ACM is assumed ACM.	Respondent will require its consultant to provide a description that clearly identifies the exact locations where bulk samples were collected, either in writing, chart, floorplan or blueprint. The consultant must provide the date of sample collection, square or linear footage of each area sampled, and must collect adequate number of samples to sufficiently identify the presence or absence of asbestos. Provide a copy of this information to DLS and maintain a copy in the management plan.	\$500
40 CFR 763.93(e)(3)(ii); 454 CMR 28.13(9)(d)4.b	The LEA failed to ensure that the management plan contained a written description of homogeneous areas where friable or non-friable ACM is assumed ACM. A homogeneous area must be of the same size, color, texture, and applied at approximately the same time.	The LEA will require its consultant to provide a written description of homogeneous areas where friable or non-friable ACM is assumed ACM. Provide a copy of this information to DLS and maintain a copy in the management plan.	\$500
40 CFR 763.93(e)(3)(iv); 454 CMR 28.13(9)(d)4.d	Respondent failed to ensure that the management plan included a copy of the analyses of any bulk samples collected and analyzed, including the date of analysis, method of analysis, and name and signature of the person performing the analysis.	Respondent will update the management plan with a copy of the laboratory reports any bulk samples collected and analyzed, including the date of analysis, method of analysis, name and signature of the person performing the analysis. If samples cannot be located, all materials listed as non-ACM must be added back to the management plan as assumed ACM, or materials must be re-sampled. Provide DLS with a copy of the bulk sample reports and maintain a copy in the management plan.	\$500
454 CMR 28.13(4)(b)	The LEA failed to ensure that bulk samples of non-friable organically bound materials, collected after 2021, were analyzed using TEM.	The LEA will assume that all non-friable organically bound suspect materials are ACM until bulk sample analysis using TEM confirms these materials do not contain asbestos. This analysis will be performed prior to any disturbance of such materials.	\$500

Based upon the fact that Respondent was put on notice in Docket No. AB-24-3646, DLS finds that Respondent had actual knowledge of this requirement and failed to implement the applicable actions required by AHERA. The penalty amounts were calculated using a base penalty with a 5X multiplier as permitted under 454 CMR 29.04(2)(b).

For the violations identified above, the Respondent shall pay to the Commonwealth a Civil Penalty for the sum of **Eighty-one thousand two hundred and fifty Dollars**
\$81,250.00

Payments for citations are made by using the DLS online payment link: www.mass.gov/dols DLS online payment. No other form of payment shall be accepted. The payment of the civil penalty shall be made within 21 days of the date of issuance of this Civil Citation on or before **October 6, 2025** or, if the civil citation is appealed, within 21 days of settlement or final administrative or judicial adjudication of the appeal, whichever is later.

Failure to pay a Civil Penalty or otherwise fail to comply with the requirements set forth in a Civil Citation may result in the issuance of an order for the cessation of all relevant activities of the person, firm, corporation or entity to whom the Civil Citation is issued, the proposed suspension or revocation of any license issued by DLS to the person, firm, corporation or entity to whom the Civil Citation is issued, and may result in referral of this action to a debt collection agency and/or submission of this debt to the Attorney General's Office for further action and other sanctions provided by 454 CMR 29.04(5). Furthermore, deductions may be made from other monies you may receive from the Commonwealth to cover any amount due to DLS.

ORDER TO CORRECT VIOLATIONS

ACTIONS TO BE TAKEN AND DEADLINES FOR TAKING SUCH ACTIONS

A Corrective Due Date has been established for each item listed in this Civil Citation and Order to Correct in which a corrective action is required. **The Corrective Action Due Date is October 13, 2025.** The Respondent must notify DLS in writing that appropriate corrective action has been completed within the time frame set forth on the citation(s). Send supporting documentation to Zachariah.Costa@mass.gov.

Corrective Actions must be completed by the Due Date, even if the Right to Appeal is exercised.

RIGHT TO APPEAL

Respondent has the right to appeal this Civil Citation and Civil Penalty and to obtain a hearing in accordance with the provisions of Massachusetts General Laws Chapter 30A. If held, such a hearing shall be conducted under the Formal Rules set forth in 801 CMR 1.01 of the Standard Rules of Adjudicatory Practice and Procedure. In order to exercise this right, the Respondent must request a hearing in writing within ten (10) calendar days

of his receipt of this Citation. This Citation is deemed to be received by Respondent not later than the third business day after mailing, which is the date of this Citation. See 454 CMR 29.06(b). **Accordingly, your appeal must be received by the Department no later than September 25, 2025.** Pursuant to 801 CMR 1.01(6)(c), Respondent shall clearly and concisely state the facts upon which Respondent's appeal is based and also state any relief sought.

Respondent's request for a hearing on the Civil Citation shall be addressed to John Beatrice, Counsel II, Department of Labor Standards, 100 Cambridge Street, Suite 500, Boston, MA 02114

The request for hearing does not absolve the Respondent from correcting violations of AHERA that have been identified. Respondent is responsible for completing the corrective actions listed in the Civil Citation by the Due Date.

APPROPRIATION OF CIVIL PENALTY

Respondent may request, in writing, to apply some or all of the Civil Penalty for the specific purpose of implementation and improvement of AHERA compliance, including the abatement of asbestos hazards. Respondent shall prioritize AHERA compliance at this school, and subsequently apply any remaining penalty amount toward AHERA compliance at other schools within the LEA. Requests for authorization to apply the Civil Penalty to AHERA compliance shall be made to Zachariah.Costa@mass.gov.

Respondent is required to submit the following to DLS to demonstrate the application of the Civil Penalty towards allowable expenditures:

- 1) A work plan itemizing projects to be completed over the next 12 months
- 2) Purchase orders and receipts for payment of any of the DLS allowable expenditures listed herein:
 - a. removal/repairs of asbestos containing materials,
 - b. asbestos training for custodial/maintenance staff and Designated Person,
 - c. bulk sampling of suspect assumed asbestos containing materials ("ACM")
 - d. HEPA filtered equipment to facilitate special cleaning requirements when ACM is present in the school
 - e. the development and implementation of an Operations & Maintenance ("O&M") Program to monitor/maintain ACM in good condition
 - f. consulting services to correct deficiencies in the AHERA management plans and bring the management plans into compliance

The request for appropriation of a Civil Penalty does not absolve the Respondent from correcting violations of AHERA that have been identified. Respondent is responsible for completing the corrective actions listed in the Civil Citation by the Due Date. Respondent must notify DLS in writing that the corrective action has been completed, along with supporting documentation of completion, within the time frame set forth on the citation(s).

TIME TO APPLY CIVIL PENALTY

Within 30 days, no later than October 6, 2025, Respondent will submit the proposed work plan and proposed expenditures to DLS. The LEA must submit expenditure documentation to DLS upon execution of the purchase order and remission of payment for goods or services.

An extension of the penalty appropriation period for a particular item may be requested in writing if Respondent can demonstrate progress toward correction of the item, and give assurance that interim safeguards are implemented to protect school employees, contractors and occupants.

Any questions regarding this Civil Citation and Civil Penalty should be directed to Zach Costa, Department of Labor Standards, 1 Federal Street, Bldg. 101-3, Springfield, MA, 01105, telephone (617) 626-5674; Zachariah.Costa@mass.gov.



DATE: ____09/15/2025____

Zachariah Costa, Safety & Health Inspector II
MA Department of Labor Standards

cc: Michael Flanagan, Director, Department of Labor Standards
Michael Weakley, Supervisor Lead and Asbestos Enforcement and Licensing, Department of Labor Standards
Nicholas Rose, General Counsel, Department of Labor Standards